

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) No. 164 of 2017**

**IN THE MATTER OF:**

**Gireesh Kumar Sanghi**

**...Appellant**

**Vs**

**Sanghi Industries Ltd. & Ors.**

**...Respondents**

**Present: For Appellant:- Ms. Anju Jain and Mr. Hitesh Sachar,  
Advocates.**

**For Respondents:- Mr. Anirudh Wadhwa and Mr. Hiresh  
Chaudhary, Advocates.**

**ORDER**

**29.05.2017-** Appellant preferred an application under section 94 of the Companies Act, 2013 for inspection of documents and to provide certified copy of the members' register along with index of members' register as on 29.09.2016. The National Company Law Tribunal by impugned order dated 24<sup>th</sup> March, 2017 in C.A.No. 81/94/HDB/2016 passed by Hyderabad Bench, refused to grant relief with following observations: -

*"7. The Petitioners' prayer to direct the respondents to provide certified copy of the members' register along with index of members' register and to direct R 16 to prosecute Respondents No. 2 to 15 for contravening the mandatory provisions of Section 94 of the Companies act, 2013 is not considered favourably by this Bench in view of the following reasons and the submissions of the Respondents.*

- a. *As per the provision and notification issued by the Government of India in Gazette No.S.O.891 (E), dated 31.03.2015 issued by the Ministry of Corporate Affairs, if an inspection of document is refused by the Company the aggrieved person is obligated to get a direction from the Central Government/Regional Director. However, in the instant case the petitioner has not obtained any approval from Central Government/Regional Director as mandated u/s 94(5) of the Companies Act, 2013. Therefore, the prayer of the petitioner is not maintainable. In the Official Gazette of India, the power to direct inspection of records and furnishing of extracts thereafter had been delegated and vested with the Regional Director. In view of the above submissions present case is outside the purview and jurisdiction of this Hon'ble NCLT.*
- b. *As per the official notification the powers are delegated under section 94(5) to the Regional Director Mumbai, Calcutta, Chennai, Noida, Ahmadabad, Hyderabad and Shillong. Therefore, this Hon' ble Tribunal has no original jurisdiction to entertain the above application filed by the Applicant Under section 94 of the Companies Act, 2013.*
- c. *Any order passed by this Tribunal would set a precedence for other members/any other person seeking inspection of members register etc. As generally known, more than 5000 companies are listed on the Stock*

*Exchanges in our country. If this kind of request for inspection of members register and copies of index register is accepted/provided the same would prone to be misused and may also invade into the personal privacy of shareholders, especially High Net worth Investors.*

- d. *The Bench further feels that facility of inspection would be prone to be misused, especially some listed companies have more than lakhs of shareholders.*
- e. *Further, the listed companies shares are being treaded in dematerialised mode (demat) and through electronic trading platform. Therefore, the shares of the frequently traded Companies will keep changing hands frequently on minute-tominute basis, hourly and daily basis.*
- f. *The Applicant prays this Tribunal to direct the Respondents to provide certified copy of members' register along with index of members' register as on 20.09.2016, but there is no provision with regard to issuance of certified copies of such registers in the Companies Act, 2013.*
- g. *The Applicant requesting the Chairman and Shareholders Grievance Committee to arrange and provide him a copy of members register maintained by the Company u/s 94 of the Companies Act, 2013 is not acceptable as it is not a reasonable request.*

- h. *The Applicant's 2<sup>nd</sup> prayer i.e. "direct R.16 to prosecute Respondents 2 to 15 for contravening the mandatory provision of Section 94 of the Companies Act, 2013" is without any basis/justification. It is noted that R 16 is only a Registrar and Share Transfer Agent of RI company and not a statutory body or Government Authority empowered with the powers to prosecute further.*
- i. *The applicant has also not justified the powers vested upon R. 16 to prosecute Respondents No.2 to 15. Therefore, this prayer is also without any basis and deserves to be rejected.*

*Considering the reply of the Respondents and the order dated 26.092016 of the NCLT, Mumbai Bench, in a similar matter between Sri Anil Kumar Poddar Vs M/S Prime Focus Ltd and (90) other companies, wherein it was observed that hard time starts to companies to defend the company petition filed by the petitioner; the prayers of the applicant, in the instant matter, do not merit consideration and therefore, we dismiss the Company Application No.81/94/HDB/2016.*

*No order as to costs."*

We have heard Ld. Counsels for the parties and perused the impugned order. From sub-section (5) of Section 94, it is clear that the Central Government is the competent authority to pass any order and direct an immediate inspection of the document, or direct that the extract required shall forthwith be allowed to be taken by the person requiring

it. In view of such provisions, the Central Government by Gazette Notification dated 31<sup>st</sup> March, 2015 issued from the Ministry of Corporate Affairs allowed the aggrieved persons to move the application before the Central Government/Regional Director. In fact, as per the official notification the powers have been delegated to the Regional Director Mumbai, Calcutta, Chennai, Noida, Ahmadabad, Hyderabad and Shillong.

Admittedly, the Appellant has not moved before the Competent Authority/Central Government. The Tribunal has no jurisdiction to entertain the application under sub-section (5) of Section 94 of the Companies Act, 2013. For the reasons, if the Tribunal refused to entertain the petition we are not inclined to interfere with the impugned order dated 24<sup>th</sup> March, 2017.

However, order passed by the Tribunal will not come in the way of Appellant to move before appropriate authority under sub-section (5) of Section 94 of the Act, 2013.

The appeal is dismissed but in the facts and circumstances, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)  
Chairperson

(Mr. Balvinder Singh)  
Member(Technical)

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